

Application No.: 10/022561

Case No.: 56540US006

Remarks

Favorable reconsideration of this application in the light of the amendments and the following discussion is respectfully requested. Claim 10 has been amended to more clearly define the invention. No new matter has been added, nor has the claim been narrowed in scope. Claims 10-15, 17, 19 and 22-25 are pending in this application for consideration.

Claim Rejections – 35 USC 112

Claims 10-15, 17, 19, and 22-25 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In this regard, it was noted that the claims recited “an effective amount of anion exchange resin,” but no longer stated what the amount was effective to do. It was therefore said to be unclear what was encompassed by “effective amount.”

Response to Claim Rejections – 35 USC 112

Claim 10 has been amended to delete “an effective amount of” with reference to the anion exchange resin, rendering this rejection moot. Claim 10 now reads, in pertinent part, “contacting the stabilized dispersion with an anion exchange resin and separating the dispersion from the anion exchange resin, wherein the separated dispersion is essentially free of fluorine-containing emulsifier.”

All of the pending claims are definite in accordance with 35 USC 112, second paragraph, and these rejections should be withdrawn.

Claim Rejections - 35 U.S.C 102(e)

Claims 9-15, 17, 19, and 22-25 were rejected under 35 U.S.C. 102(e) as being anticipated by WO 01/57100 to Grootaert et al. The Examiner takes the position that Grootaert discloses the instantly claimed method at page 3, lines 26-36; page 8, lines 18-36; page 14, lines 31-38; page 15, lines 1-36, particularly 12-23; page 16, lines 1-37; page 17, lines 1-36; and the remainder of the document. As claim 9 was canceled in the previous Amendment, applicants assume this rejection refers to claims 10-15, 17, 19, and 22-25.

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Response to Claim Rejections - 35 U.S.C 102(e)

Applicants request withdrawal of the rejection at least on the basis that WO 01/57100 to Grootaert et al. is not properly citable under 35 U.S.C. 102(e). As noted in MPEP 2136, "The prior art date of a reference under 35 U.S.C. 102(e) may be the international filing date if the international filing date was on or after November 29, 2000, the international application designated the United States, and the international application was published ... in the English language." This section further states that "references based on international applications filed prior to November 29, 2000 are subject to the former (pre-AIPA) version of 35 U.S.C. 102(e)." See also MPEP 2136.03 (II). As the international filing date of WO 01/57100 to Grootaert et al. is September 18, 2000, the international filing date is not on or after November 29, 2000, and amended 35 U.S.C. 102(e) does not apply.

In addition, it must be noted that the two-letter code "US" does not appear under field (81) "Designated States (*national*)" of WO 01/57100 to Grootaert et al. Thus, this international application did not designate the United States, and is therefore not properly citable under either version of 35 U.S.C. 102(e).

For these reasons, the rejection of the claims under 35 U.S.C. 102(e) based on WO 01/57100 to Grootaert et al. is improper and should be withdrawn.

Claim Rejections - 35 U.S.C. 103

Claims 9-15, 17, 19, and 22-25 were also rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/57100 to Grootaert et al. The Examiner applies Grootaert et al. as above, and takes the position that it would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed anion exchange resin conditions because Grootaert et al. states that the choice of anion exchange resin is not critical and the instantly claimed anion exchange resin limitations are expected to be required for the anion exchange of the reference to be effected. Again, as claim 9 was canceled in the previous Amendment, applicants assume this rejection refers to claims 10-15, 17, 19, and 22-25.

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Response to Claim Rejections - 35 U.S.C 103

As discussed above, WO 01/57100 to Grootaert et al. is not properly citable under 35 U.S.C. 102(e), and therefore is not available as a reference in a rejection under 35 U.S.C. 103. For at least this reason, the rejection of the claims under 35 U.S.C. 103(a) based on WO 01/57100 to Grootaert et al. is improper and should be withdrawn.

Conclusion

In view of the foregoing remarks, favorable reconsideration of the present application and the passing of this case to issue with all claims allowed is courteously solicited. Should the Examiner wish to discuss any aspect of this application, applicants' attorney suggests a telephone interview in order to expedite the prosecution of the application.

Respectfully submitted,

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Date

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